

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MAY 13, 2004

AMENDED IN SENATE APRIL 26, 2004

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1462

Introduced by Senator Kuehl
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Koretz)

February 19, 2004

An act to amend Sections 65352, 65404, 65940, and 65944 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Kuehl. Military readiness activities: special use airspace.

(1) The Planning and Zoning Law requires the planning agency prior to action by a legislative body of a city or county to adopt or substantially amend a general plan, to refer the proposed action to specified entities, including, among other entities, any elementary, high school, or unified school district within the area covered by the proposed action and any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

The bill would include among those entities the branches of the United States Armed Forces when the proposed action lies within military special use airspace or a low-level flight path and would require the Governor, on or before January 1, 2005, to develop processes to

resolve conflicts between the military, a local agency, or a project applicant when the proposed project may have the potential to adversely affect military readiness activities.

(2) The Planning and Zoning Law also requires each state agency and each local agency to compile one or more lists that specify in detail the information required from a project applicant as part of its statement of application for a development project and requires that copies of this information be made available to all project applicants and to any person who requests the information.

The bill would also revise the information required in the application by the project applicant when the proposed project is located adjacent to a military facility or within special use airspace and would require the public agency to provide a copy of the complete application to any branch of the United States Armed Forces, as specified. The bill would authorize any branch of the United States Armed Forces to request consultation with the public agency or the project applicant and would provide that the provisions referred to in this paragraph are not required until the Department of Defense provides *electronic* maps that identify military installations and special use airspace at a 1:400,000 scale *and provides other related information*. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

The bill would also require the Office of Planning and Research, within 30 days of the receipt of the maps, to notify cities, counties, and cities and counties of the availability of these maps and the descriptions of special use airspace on the Internet.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Military bases and their mission are important to the
- 4 California economy.



1 (2) The military needs special use airspace to train effectively.

2 (3) The development of civilian land uses may impair the
3 military's ability to train.

4 (4) Creating a process to identify and assist in resolving
5 potential conflicts between land uses and the military's need for
6 special use airspace is essential to California's public health,
7 safety, and welfare.

8 (b) Accordingly, the Legislature finds and declares that it is the
9 policy of the state to cooperate with the military to do all of the
10 following:

11 (1) Consider the effects of civilian land uses that may be
12 incompatible with the military's use of its assets.

13 (2) Create processes to resolve conflicts between civilian land
14 uses and the military's use of its assets.

15 SEC. 2. Section 65352 of the Government Code is amended
16 to read:

17 65352. (a) Prior to action by a legislative body to adopt or
18 substantially amend a general plan, the planning agency shall refer
19 the proposed action to all of the following entities:

20 (1) Any city or county, within or abutting the area covered by
21 the proposal, and any special district that may be significantly
22 affected by the proposed action, as determined by the planning
23 agency.

24 (2) Any elementary, high school, or unified school district
25 within the area covered by the proposed action.

26 (3) The local agency formation commission.

27 (4) Any areawide planning agency whose operations may be
28 significantly affected by the proposed action, as determined by the
29 planning agency.

30 (5) Any federal agency if its operations or lands within its
31 jurisdiction may be significantly affected by the proposed action,
32 as determined by the planning agency.

33 (6) The branches of the United States Armed Forces that are in
34 compliance with Section 65944 when the proposed action lies
35 within military special use airspace or a low-level flight path as
36 defined in Section 21098 of the Public Resources Code.

37 (7) Any public water system, as defined in Section 116275 of
38 the Health and Safety Code, with 3,000 or more service
39 connections, that serves water to customers within the area
40 covered by the proposal. The public water system shall have at

1 least 45 days to comment on the proposed plan, in accordance with
2 subdivision (b), and to provide the planning agency with the
3 information set forth in Section 65352.5.

4 (8) The Bay Area Air Quality Management District for a
5 proposed action within the boundaries of the district.

6 (b) Each entity receiving a proposed general plan or
7 amendment of a general plan pursuant to this section shall have 45
8 days from the date the referring agency mails it or delivers it in
9 which to comment unless a longer period is specified by the
10 planning agency.

11 (c) (1) This section is directory, not mandatory, and the failure
12 to refer a proposed action to the other entities specified in this
13 section does not affect the validity of the action, if adopted.

14 (2) To the extent that the requirements of this section conflict
15 with the requirements of Chapter 4.4 (commencing with Section
16 65919), the requirements of Chapter 4.4 shall prevail.

17 SEC. 3. Section 65404 of the Government Code is amended
18 to read:

19 65404. (a) On or before January 1, 2005, the Governor shall
20 develop processes to do all of the following:

21 (1) Resolve conflicting requirements of two or more state
22 agencies for a local plan, permit, or development project.

23 (2) Resolve conflicts between state functional plans.

24 (3) Resolve conflicts between state infrastructure projects.

25 (4) Provide for mediation between the military, a local agency,
26 or a project applicant, when a proposed project may have the
27 potential to adversely affect military readiness activities as defined
28 in subdivision (a) of Section 65302.

29 (b) The process may be requested by a local agency, project
30 applicant, or one or more state agencies. The mediation process
31 identified in paragraph (4) of subdivision (a) may also be requested
32 by a branch of the United States Armed Forces.

33 SEC. 4. Section 65940 of the Government Code is amended
34 to read:

35 65940. (a) Each state agency and each local agency shall
36 compile one or more lists that shall specify in detail the
37 information that will be required from any applicant for a
38 development project. Each local agency shall revise the list of
39 information required from an applicant to include a certification

of compliance with Section 65962.5, and the statement of application required by Section 65943.

(b) The list of information required from any applicant shall include identification of whether the proposed project is located adjacent to a military facility, within special use airspace, as defined in subdivision (a) of Section 21098 of the Public Resources Code, and within an urbanized area, as defined in Section 65944. A city, county, or city and county that is not within special use airspace or whose entire jurisdiction is within an urbanized area as defined in Section 65944, is not required to identify whether a project is within special use airspace.

(c) Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

~~(d) adjacent to a military facility, beneath a low-level flight path as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944. A city, county, or city and county that is not beneath a low-level flight path or whose entire jurisdiction is within an urbanized area as defined in Section 65944 is not required to identify whether a project is beneath a low-level flight path. Copies of the information, including the statement of application required by Section 65942, shall be made available to all applicants for development projects and to any person who requests the information.~~

(c) (1) Subdivision (b) of this section as it relates to special use airspace and urbanized areas shall not be required until the United States Department of Defense provides maps that identify military installations and special use airspace at a 1:400,000 scale, required until the United States Department of Defense provides electronic maps of low-level flight paths and military installations at a scale of 1:400,000 that are available on a single Department of Defense Web site that is accessible to the public. The maps shall clearly identify sections, townships, and ranges. The Web site shall also provide metes and bounds descriptions of low-level flight paths.

(2) Within 30 days of receipt of the maps, the Office of Planning and Research shall notify cities, counties, and cities and counties of the availability of these maps as well as the availability of the descriptions of special use airspace on the Internet.

1 SEC. 5. Section 65944 of the Government Code is amended
2 to read:

3 65944. (a) After a public agency accepts an application as
4 complete, the agency shall not subsequently request of an
5 applicant any new or additional information which was not
6 specified in the list prepared pursuant to Section 65940. The
7 agency may, in the course of processing the application, request
8 the applicant to clarify, amplify, correct, or otherwise supplement
9 the information required for the application.

10 (b) The provisions of subdivision (a) shall not be construed as
11 requiring an applicant to submit with his or her initial application
12 the entirety of the information which a public agency may require
13 in order to take final action on the application. Prior to accepting
14 an application, each public agency shall inform the applicant of
15 any information included in the list prepared pursuant to Section
16 65940 which will subsequently be required from the applicant in
17 order to complete final action on the application.

18 (c) This section shall not be construed as limiting the ability of
19 a public agency to request and obtain information which may be
20 needed in order to comply with the provisions of Division 13
21 (commencing with Section 21000) of the Public Resources Code.

22 (d) After a public agency accepts an application as complete,
23 and if the project applicant has identified that the proposed project
24 is located adjacent to a military facility or within special use
25 airspace in accordance with Section 65940, the public agency shall
26 provide a copy of the complete application to any branch of the
27 United States Armed Forces that has provided the Office of
28 Planning and Research with a single California mailing address
29 within the state for the delivery of a copy of these applications.

30 (e) The public agency is not required to provide a copy of the
31 application if the project is located in an “urbanized area.” An
32 urbanized area is any urban location that meets the definition used
33 by the United State Department of Commerce’s Bureau of Census
34 for “urban” and includes locations with core census block groups
35 containing at least 1,000 people per square mile and surrounding
36 census block groups containing at least 500 people per square mile.

37 (f) Upon receipt of a copy of the application as required in
38 subdivision (d), any branch of the United States Armed Forces
39 may request consultation with the public agency or the project
40 applicant to discuss the potential effects of the proposed project on



1 military facilities or special use airspace, including the potential
2 alternatives, mitigation measures, and any potential and
3 significant effects on the environment that may be caused by the
4 project.

5 (g) (1) Subdivisions (d), (e), and (f) of this section as these
6 relate to special use airspace and urbanized areas shall not be
7 ~~required until the United States Department of Defense provides~~
8 ~~maps that identify military installations and special use airspace at~~
9 ~~a 1:400,000 scale.~~ *required until the United States Department of*
10 *Defense provides electronic maps of low-level flight paths and*
11 *military installations at a scale of 1:400,000 that are available on*
12 *a single Department of Defense Web site that is accessible to the*
13 *public. The maps shall clearly identify sections, townships, and*
14 *ranges. The Web site shall also provide metes and bounds*
15 *descriptions of low-level flight paths.*

16 (2) Within 30 days of receipt of the maps, the Office of
17 Planning and Research shall notify cities, counties, and cities and
18 counties of the availability of these maps as well as the availability
19 of the descriptions of special use airspace on the Internet.

20 SEC. 6. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 a local agency or school district has the authority to levy service
23 charges, fees, or assessments sufficient to pay for the program or
24 level of service mandated by this act, within the meaning of
25 Section 17556 of the Government Code.

